

Message Text

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ACTION L-03

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E.O. 11652: NA
TAGS: ETRD, EINV, JA
SUBJECT: U.S.-JAPAN FRIENDSHIP COMMERCE
NAVIGATION (FCN) TREATY

REF: STATE 194974

1. SUMMARY:

JAPANESE PRACTICE OF ISSUING TREATY TRADER VISAS IN
OPINION OF LOCAL AMERICAN BUSINESSMEN IS LIBERAL.
NO NUMERICAL LIMITATIONS IMPOSED. MOFA OFFICIAL STATES
GOJ AND USG PRACTICE OF ISSUING TREATY TRADER VISAS
INDICATES SAME UNDERSTANDING OF FCN TREATY.

2. JAPANESE PRACTICE REGARDING ARTICLE VIII, PARAGRAPH
1, OF FCN TREATY DISCUSSED WITH KNOWLEDGEABLE LOCAL
AMERICAN LAWYER AND BUSINESSMAN WHO HAVE LIVED HERE
SEVERAL YEARS. AMERICAN BUSINESSMAN HEADS
AMERICAN CHAMBER OF COMMERCE (ACCJ) COMMITTEE CONCERNED
WITH THIS PROBLEM. ALSO DISCUSSED PERTINENT PARTS
OF REFTEL WITH MOFA OFFICIAL.

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3. QUESTIONS WILL BE ANSWERED BELOW IN ORDER ASKED
UNDER REFTEL.

5(A) CONSENSUS OF PERSONS CONSULTED IS THAT GOJ
IS LIBERAL ABOUT ACCOMMODATING REQUESTS BY AMERICAN
BUSINESSES EMPLOYING AMERICAN NATIONALS AS TREATY TRADERS
WITHIN JAPAN. JAPANESE REGULATIONS ON THIS SUBJECT

CONSIDERED TO BE MORE FLEXIBLE THAN U.S. REGULATIONS.

(B) ONLY CONDITIONS PLACED ON RIGHT OF U.S. BUSINESSES OPERATING IN JAPAN TO HIRE EXECUTIVE PERSONNEL OF THEIR CHOICE ARE AFFIDAVITS OF SUPPORT AND WRITTEN ASSURANCE OF THE JOB.

6(A) GRANTING ABSOLUTE RIGHT TO ENGAGE AMERICAN NATIONALS AS TREATY TRADERS ONLY TO AMERICAN COMPANIES OPERATING THROUGH BRANCH OFFICES WOULD CREATE SERIOUS PROBLEM FOR LOCAL SUBSIDIARIES. IT COULD CRIPPLE THE ACTIVITIES OF SOME COMPANIES.

6(B) EQUAL CONSIDERATION IS GIVEN TO LOCAL CITIZENS AS WELL AS AMERICAN NATIONALS. AT PRESENT AMERICAN FIRMS GIVE JAPANESE PREFERENCE WHEN HIRING BECAUSE OF THE GREATER COST OF HIRING AMERICANS. AMERICANS ARE HIRED ONLY WHEN JAPANESE CANNOT BE FOUND TO DO THE JOB.

7. MOFA OFFICIAL STATED THAT 6(B) INTERPRETED SAME BY GOJ AS USG. PROFESSIONAL PERSONS MUST QUALIFY FOR THE JOB UNDER LOCAL LAW, HOWEVER. FOR EXAMPLE, AMERICAN LAWYER, DOCTOR OR ACCOUNTANT MUST PASS LOCAL QUALIFYING EXAMS IN SAME MANNER AS JAPANESE MUST QUALIFY IN THE UNITED STATES. THIS APPLIES TO PRACTICE LIMITED OFFICIAL USE

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OF JAPANESE LAW. EA/J WILL BE FAMILIAR WITH PRACTICE REGARDING PRACTICE OF U.S. LAW AS IN SHAPIRO CASE.

8. AMERICAN CONTACTS AND MOFA OFFICIAL STATE THAT JAPANESE IMPOSE NO NUMERICAL LIMITATIONS ON NUMBER OF TREATY TRADERS AMERICAN FIRMS MAY BRING TO JAPAN. NO CASES ARE KNOWN OF JAPANESE REFUSAL TO ISSUE TREATY TRADER VISAS TO AMERICAN DOING BUSINESS IN JAPAN AS SOLE PROPRIETORS AND TO EMPLOYEES OF AMERICAN-OWNED JAPANESE COMPANIES. THUS, OBSERVATIONS MADE BY INSPECTORS IN NOVEMBER 1975 ARE NO LONGER CORRECT. AMERICAN PRACTICE HAS NOT BECOME RESTRICTIVE AND NO DISCUSSIONS HAVE TAKEN PLACE WITH THE JAPANESE ABOUT THIS ISSUE.

4. ABOVE INFORMATION HASTILY DEVELOPED SINCE REFTTEL FELL BETWEEN STOOLS HERE ON ARRIVAL. WE WILL TRY TO . GIVE DEPARTMENT FURTHER CONSIDERED REPLY IN A FEW DAYS. MANSFIELD

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